REMARKS

This Amendment is submitted in reply to the final Office Action mailed on April 27, 2006. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-460 on the account statement.

Claims 1-24 are pending in this application. In the Office Action, Claims 1-2, 4, 6 and 8-10 are rejected under 35 U.S.C. §102 and Claims 1-24 are rejected under 35 U.S.C. §103. In response Claim 1 has been amended. This amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicant respectfully submits that the rejections should be withdrawn.

In the Office Action, Claims 1-2, 4, 6 and 8-10 are rejected under 35 U.S.C. §102(e) as being anticipated U.S. Patent No. 6,189,944 to Piche ("*Piche*"). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

Applicants have amended independent Claim 1 to recite, in part, a computer for receiving information regarding the pet and generating a pet profile. Claim 1 has also been amended to recite, in part, a customer interface area for receiving information regarding the pet and a biological sample analysis and handling area for analyzing the biological information regarding the pet. The amendments are supported in the specification, for example, at page 4, paragraph 9 and pages 5-6, paragraphs 12-14. For example, the computer can store custom pet product groupings for one or more pets analyzed to allow the consumer can return to the kiosk to quickly purchase additional supplies of the pet product in either a completed form. In addition, data from the biological sample analysis can be combined with the pet profile information and entered into the computer.

In contrast, Applicants respectfully submit that *Piche* fails to disclose or suggest every element of Claim 1 as currently amended. For example, *Piche* fails to disclose or suggest a computer for receiving information regarding the pet and generating a pet profile as required, in part, by Claim 1. In fact, *Piche* fails to disclose or suggest the use of a computer anywhere in its specification. *Piche* also fails to disclose or suggest a customer interface area for receiving

information regarding the pet or a biological sample analysis and handling area for analyzing the biological information regarding the pet as required, in part, by Claim 1.

In addition, although the Patent Office alleges that element 10 of *Piche* is equivalent to the product additive storage area, element 10 refers to an engine compartment that is specifically designed and used only for water storage. See, *Piche*, column 3, lines 38-44. *Piche* provides no teaching or suggestion to one of ordinary skill in the art that the engine compartment can be or is used to store anything else besides water. For the reasons discussed above, Applicants respectfully submit that Claim 1 and Claims 2, 4, 6 and 8-10 that depend from Claim 1 are novel, non-obvious and distinguishable from the cited reference.

Accordingly, Applicants respectfully request that the rejection of Claims 1-2, 4, 6 and 8-10 under 35 U.S.C. §102(e) to *Piche* be withdrawn.

Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Piche* in view of U.S. Patent No. 6,098,346 to Miller et al. ("*Miller*"). Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Piche* in view of U.S. Patent No. 6,754,919 to Leaphart et al. ("*Leaphart*"). Claims 7 and 10-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Piche* in view of U.S. Patent No. 4,179,723 to Spencer ("*Spencer*"). Applicants respectfully submit that the patentability of Claim 1 as previously discussed renders moot the obviousness rejection of Claims 3, 5, 7 and 10-11 that depend from Claim 1. In this regard, the cited references fail to teach or suggest the elements of Claims 3, 5, 7 and 10-11 in combination with the novel elements of Claim 1.

In the Office Action, Claims 12-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,358,546 to Bebiak et al. ("*Bebiak*") in view of U.S. Patent No. 6,291,533 to Fleischner ("*Fleischner* "). Applicants believe the rejection is improper and traverse it for at least the reasons set forth below.

Independent Claim 12 recites, in part, a method for marketing a customized food product for a pet using a kiosk. For example, the method comprises, in part, providing the kiosk including at least one of a consumer interaction station, an analysis station and a workstation. In contrast, Applicants respectfully submit that there is no suggestion or motivation to combine the cited references to obtain the present claims, and even if combinable, all of the claimed elements are not taught or suggested by the cited references.

Applicants respectfully submit that there is no suggestion or motivation to combine the cited references to obtain the present claims. *Bebiak* is directed to methods for customizing pet foods to be used by pets or animals. See, *Bebiak*, Abstract. *Fleischner* is in a completely different field of invention and is directed to dietary supplements for a specific blood type in humans. See, *Fleischner*, Abstract. In fact, *Fleischner* fails to disclose or suggest anywhere that his invention could be applied to animals and provides no guidance for doing so.

Moreover, the Patent Office has still failed to provide any specific evidence within *Fleischner* showing or even suggesting it could be applied to animals. The Patent Office cites *Fleischner*, column 2, lines 35, as teaching the analysis of a biological material to determine a proper food product. Nevertheless, the product of *Fleischner* is a human dietary supplement for a specific human blood type, which teaches away from the combination with *Bebiak* directed solely to pet foods.

If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). This certainly applies here where one of the cited references is directed to a customized pet food intended solely to be consumed by animals (*Bebiak*) and the other cited reference is directed to a human dietary supplement based on specific human blood type intended to be consumed solely by humans (*Fleischner*). As a result, the particular product of each reference is important and designed specifically for either pets/animals or humans. Moreover, because of these differences, one skilled in the art would not be motivated to modify or combine *Bebiak* and *Fleischner* to arrive at the present claims. Consequently, the combination of *Bebiak* and *Fleischner* is improper and thus fails to render Claim 12 obvious for at least these reasons.

Applicants also respectfully submit that, even if combinable, the cited references do not disclose or suggest all of the elements of Claim 12. For instance, *Bebiak* and *Fleischner* fail to disclose or suggest anywhere in their specifications providing a kiosk including at least one of a consumer interaction station, an analysis station and a workstation as required, in part, by Claim 12. In fact, the Patent Office has still provided no specific evidence of using a kiosk in either *Bebiak* or *Fleischner*. Instead, the Patent Office attempts to show every element of Claim 12 within *Bebiak* and *Fleischner* but the required elements of providing a kiosk including at least

one of a consumer interaction station, an analysis station and a workstation. See, Office Action, page 3, lines 11-13. *Bebiak* and *Fleischner* also fail to disclose or suggest performing an analysis of a biological sample for a pet at the analysis station.

For the reasons discussed above, the combination of *Bebiak* and *Fleischner* is improper. Moreover, even if combinable, *Bebiak* and *Fleischner* do not teach, suggest, or even disclose all of the elements of the present claims, and thus, fail to render Claim 12 and Claims 13-19 that depend from Claim 12 obvious for at least these reasons.

Accordingly, Applicants respectfully request that the obviousness rejection under *Bebiak* and *Fleischner* with respect to Claims 12-19 be reconsidered and the rejection be withdrawn.

Claim 20 was rejected for similar reasons set for in Claims 1, 12 15, 17 and 18. Claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Bebiak* and *Fleischner* in view of in view of U.S. Patent No. 6,427,879 to Caldwell ("*Caldwell*"). Applicants believe these rejections are improper and traverse for at least the reasons set forth above. For example, *Bebiak* and *Fleischner* fail to disclose or suggest anywhere in the specification providing a kiosk including at least one of a customer interface area, a biological sample analysis and handling area, a base product storage area, at least one product additive storage area and an ingredient mixing and customer observation area as required, in part, by Claim 20. In fact, the Patent Office provides no specific evidence of using a kiosk in either *Bebiak* or *Fleischner*. *Bebiak* and *Fleischner* also fail to disclose or suggest receiving at least one of a biological sample and pet questionnaire information at the customer interface area and processing the data from the sample and the questionnaire at the biological sample analysis and handling area as required, in part, by Claim 20.

Accordingly, Applicants respectfully request that the obviousness rejection with respect to Claim 20 be reconsidered and the rejection be withdrawn. The patentability of Claim 20 as previously discussed renders moot the obviousness rejections of dependent Claims 21-24.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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